REMARKS

Reconsideration and withdrawal of the remaining rejections of this application and consideration and entry of this paper are respectfully requested in view of the herein remarks, which are believed to place the application in condition for allowance.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 16-62, 64-66 and 68-107 are pending. Claims 16, 17, 36, 37 and 56 have been amended.

Support for the amendment to the specification can be found on page 7, line 16 of the application as originally filed, in the text of the Preliminary Amendment that was filed on in the parent application on January 15, 1999, and in column 2, lines 52-53, of U.S. Patent No. 5,846,946 (copy attached), which was incorporated by reference into the present application by the Preliminary Amendment. Support for the amended claims can be found in the amended paragraph of the specification. No new matter is added.

It is submitted that these claims are patentably distinct from the references cited by the Examiner, and that these claims are in full compliance with the requirements of 35 U.S.C. §112. The amendments of the claims herein are not made for the purpose of patentability within the meaning of 35 U.S.C. §§ 101, 102, 103 or 112; but rather the amendments are made simply for clarification and to round out the scope of protection to which Applicants are entitled. Furthermore, it is explicitly stated that the herewith amendments should not give rise to any estoppel, as the herewith amendments are not narrowing amendments.

It is noted that PCT/FR97/01322, filed on July 16, 1997 and published as WO 98/03196 on January 29, 1998, corresponding to the instant application, is not prior art to the instant application.

II. THE DOUBLE PATENTING REJECTION IS OVERCOME

Claims 16-62, 64-66 and 68-107 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-80 of U.S. Patent No. 6,451,770. A terminal disclaimer with respect to U.S. Patent No. 6,451,770 is attached, obviating the rejection. Reconsideration and withdrawal are requested.

III. THE REJECTION UNDER 35 U.S.C. §112, 1ST PARAGRAPH, IS OVERCOME

Claims 16-62 and 64-66 were rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking enablement. The rejection is traversed.

The Examiner is thanked for acknowledging that the specification is enabling for an immunogenic composition or vaccine comprising a plasmid encoding an immunogen from a bovine pathogen, operably linked to a viral promoter, administered using a liquid jet intradermal administration apparatus, and methods for inducing an immunological response or vaccinating against a bovine pathogen. The claims have been amended to specify that the nucleic acid molecule encoding an immunogen of a bovine pathogen is operably linked to a mammalian viral promoter, thereby obviating the rejection.

Accordingly, the claims meet the requirements of Section 112, first paragraph, and reconsideration and withdrawal of the rejection are requested.

CONCLUSION

In view of the remarks and amendments herewith, the application is believed to be in condition for allowance, or at least in better condition for appeal. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date.

Respectfully submitted,
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